Statement Under Rule 15(b).

This action was commenced by the service of process on Isthmian Steamship Co., Inc., on or about July 27, 1953.

There has been no change in parties or their attorneys except that Thomas O'Rourke Gallagher, Esq., has been substituted for Joseph A. Mauro, Esq., as attorney for the plaintiff.

A pre-trial hearing was had before Hon. Mortimer W. Byers, U.S.D.J., and a transcript of the hearing was filed with the Clerk of the District Court.

The trial was had before Hon. Clarence G. Galston and a jury on the 30th day of April, 1956, and the 2nd and 3rd days of May, 1956. A sealed verdict was rendered for the defendant.

Judgment appealed from was entered upon the verdict on July 11, 1956, dismissing the action on the merits.

Order appealed from, dated June 18, 1956, denying motion to set aside verdict.

Order appealed from, dated November 9, 1956, denying plaintiff's motion for the names and addresses of jurors, and for other relief.

No opinion was rendered herein.

The charge of the Court is printed at pages 236-245 of the stenographer's minutes.

Extracts from the testimony, so far as deemed necessary by the plaintiff-appellant are set forth in the annexed brief of plaintiff-appellant.

Judgment Appealed From.

The above entitled cause having come on for trial before Hon. Clarence Galston, United States District Judge and a jury on April 30th, May 1st and May 2nd, 1956, and both parties having appeared by counsel, and the issues having been duly tried, and the jury having returned a verdict for the defendant;

Now on motion of Garvey & Conway, Esqs., attorneys for the defendant, it is

ORDERED, ADJUDGED AND DECREED that the plaintiff take nothing, that the action be and it is hereby dismissed on the merits, that defendant have and recover from plaintiff its costs in the action, and that defendant have execution therefor.

Dated: Brooklyn, New York, July 11th, 1956.

C. GALSTON,
United States District Judge.

Order of June 18, 1956, Appealed From.

Plaintiff having moved for re-argument of the motion to set aside the jury's verdict in favor of defendant after trial and for judgment in his favor or in the alternative for a new trial:

Now upon reading and filing the Notice of Motion dated May 9th, 1956, based upon the affidavit of Thomas O'Rourke Gallagher, sworn to the 9th day of May, 1956, in support of said motion, and the affidavit of George S. Pickwick, sworn to the 14th day of May, 1956, in opposition thereto; and after hearing Thomas O'Rourke Gallagher, attorney for the plaintiff in support and George S. Pickwick, Esq., trial counsel for defendant in opposition, and due deliberation having been had; it is

Ordered that said motion be and the same hereby is in all respects denied.

Dated: Brooklyn, New York, June 18, 1956.

CLARENCE G. GALSTON,
U.S.D.J.

Order of November 9, 1956, Appealed From.

Plaintiff having moved for an Order (a) Directing and authorizing the Clerk of this Court to furnish plaintiff's attorney with the names and addresses of the members of the jury who sat on the trial of the above entitled action and rendered verdict in favor of the defendant; (b) Authorizing and permitting plaintiff's attorney to interview and question them as to the issues herein and put their statements into affidavit form; and (c) If difficulty be encountered in accomplishing the provisions set forth in "b" that subpoena be issued directing said jurors to appear at a specified time in open court, and testify as to the matters herein set forth and give detailed information as to same; (d) That plaintiff have such other and further relief as may be just, proper and equitable; based on the affidavit of Thomas O'Rourke Gallagher, attorney for the plaintiff, sworn to October 15, 1956 and the Notice of Motion dated October 15, 1956; and said motion having come on to be heard on the 24th day of October, 1956, and application having been made on behalf of the defendant for an adjournment of said argument, to which plaintiff had consented, and the motion having been denied without argument or appearance on the part of the said defendant, except as stated; it is

Ordered that said motion be and the same is in all respects denied.

Dated, Brooklyn, N. Y., November 9, 1956.

CLARENCE G. GALSTON,
U. S. D. J.

Notice of Appeal.

Sirs:

Please take notice that the plaintiff appeals to the United States Court of Appeals for the Second Circuit, from verdict rendered and judgment entered thereon on or about the Second day of May, 1956, in favor of the defendant and against the plaintiff after trial before Judge and Jury at a Civil Term of the United States District Court, Eastern District of New York; and said plaintiff also appeals from the Order denying motion for new trial and re-argument thereof; and said plaintiff appeals from each and every part of said judgment and order as well as from the whole thereof.

Dated, Brooklyn, New York, May 25th, 1956.

Yours, etc.,

Thomas O'Rourke Gallagher,
Attorney for Plaintiff,
No. 188 Montague Street,
Borough of Brooklyn 1,
City and State of New York.

To:

Garvey & Conway, Esqs.,
Attorneys for Defendant,
No. 99 John Street,
Borough of Manhattan,
New York 38, N. Y.

Notice of Appeal.

Sirs:

Please take notice that the plaintiff hereby appeals to the United States Court of Appeals for the Second Circuit, from Order of this Court dated June 18, 1956 which denied plaintiff's motion to set aside the jury's verdict in favor of defendant after trial, which motion was based upon the affidavit of Thomas O'Rourke Gallagher and Notice of Motion dated May 9th, 1956 and opposed by George S. Pickwick, Esq., trial counsel for defendant; and said plaintiff appeals from each and every part of said Order and denial of said motion as well as from the whole thereof.

Dated, July 3rd, 1956.

Yours, etc.,

Thomas O'Rourke Gallagher,
Attorney for Plaintiff,
No. 188 Montague Street,
Borough of Brooklyn 1,
City and State of New York.

To:

Garvey & Conway, Esqs.,
Attorneys for Defendant,
No. 99 John Street,
Borough of Manhattan,
New York 38, N. Y.

Notice of Appeal.

Sirs:

Please take notice that the plaintiff hereby appeals to the United States Court of Appeals for the Second Circuit, from Order of this Court granted and entered on or about the 9th day of November, 1956, which denied plaintiff's motion for an order:

(a) Directing and authorizing the Clerk of this Court to furnish plaintiff's attorney with the names and addresses of the members of the jury who sat on the trial of the above entitled action and rendered verdict in favor of the defendant;

(b) Authorizing and permitting plaintiff's attorney to interview and question them as to the issues herein and put their statements into affidavit form; and

(c) If difficulty be encountered in accomplishing the provisions set forth in "b" that subpoena be issued directing said jurors to appear at a specified time in open court, and testify as to the matters herein set forth and give detailed information as to same;

(d) That plaintiff have such other and further relief as may be just, proper and equitable;

And said plaintiff appeals from each and every part of said Order as well as from the whole thereof.

Dated, Brooklyn, New York, November 26, 1956.

Thomas O'Rourke Gallagher,
Attorney for Plaintiff,
No. 188 Montague Street,
Borough of Brooklyn 1,
City and State of New York.

To:

Garvey & Conway, Esqs.,
Attorneys for Defendant,
No. 99 John Street,
Borough of Manhattan 38,
New York City.